

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JUAN ANTONIO HERNANDEZ,	)	
	)	
Petitioner,	)	4:14CV3172
	)	
v.	)	
	)	
MRS. DIANE SABATKA-RINE,	)	MEMORANDUM AND ORDER
Warden, Nebraska State	)	
Penitentiary,	)	
	)	
Respondent.	)	
_____	)	

This matter is before the Court on petitioner's Motion to Appoint Counsel (Filing No. [11](#)). "[T]here is neither a constitutional nor statutory right to counsel in habeas proceedings; instead, [appointment] is committed to the discretion of the trial court." [McCall v. Benson, 114 F.3d 754, 756 \(8th Cir. 1997\)](#). As a general rule, counsel will not be appointed unless the case is unusually complex or the petitioner's ability to investigate and articulate the claims is unusually impaired or an evidentiary hearing is required. See, e.g., [Morris v. Dormire, 217 F.3d 556, 558-59 \(8th Cir. 2000\)](#), cert. denied, 531 U.S. 984 (2000); [Hoggard v. Purkett, 29 F.3d 469, 471 \(8th Cir. 1994\)](#). See also Rule 8(c) of the Rules Governing Section 2254 Cases in the United States District Courts

(requiring appointment of counsel if an evidentiary hearing is warranted).

The Court has carefully reviewed the record and finds there is no need for the appointment of counsel at this time. Accordingly,

IT IS ORDERED that petitioner's Motion to Appoint Counsel (Filing No. [11](#)) is denied without prejudice to reassertion.

DATED this 14th day of January, 2015.

BY THE COURT:

/s/ Lyle E. Strom

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LYLE E. STROM, Senior Judge  
United States District Court

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